

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION

MDL No. 1456

THIS DOCUMENT RELATES TO:
ALL CLASS ACTIONS

CIVIL ACTION: 01-CV-12257-PBS
Judge Patti B. Saris

TRIAL OF CLASS 2 AND 3 CLAIMS

**PLAINTIFFS' MOTION FOR EXTENSION OF TIME
TO RESPOND TO DEFENDANTS' NEW MOTIONS**

At the end of trial, Defendants filed a series of motions and supporting memoranda as follows:

- The BMS Defendants' Motion for Judgment Pursuant to Fed. R. Civ. P. 52(c), Dkt. No. 3469 (12/14/06)
- The Johnson & Johnson Defendants' Motion for Judgment on Partial Findings, Dkt. No. 3483 (12/18/06)
- Track One Defendants' Motion For Judgment on Partial Findings, Dkt. No. 3486 (12/18/06)
- AstraZeneca Pharmaceuticals LP's Motion For Judgment on Partial Findings, Dkt. No. 3488 (12/18/06)
- The BMS Defendants' Motion to Strike Plaintiffs' Exhibit 4012, Dkt. No. 3485 (12/18/06)
- Schering & Warrick's Motion to Strike Portions of Plaintiffs' Exhibit 4012, Dkt. No. 3505 (12/22/06)
- Track 1 Defendants' Memorandum of Law in Response to the Court's Questions Concerning the Implication of Evidence With Respect to Class 3 Named Representatives For the Remainder of the Class, Dkt. No. 3479 (12/15/06)

Plaintiffs respectfully move for leave to file responses to these motions and memoranda on **January 19, 2006** along with Plaintiffs' proposed findings of fact and trial brief. Plaintiffs believe that such an extension is warranted for two reasons.

First, in acknowledging the length of the trial just concluded, the Court repeatedly stated that the parties should not have to work over the holidays, including through New Year's Day. Responding to the above motions any earlier than January 19 would have required Class Counsel to forego long-awaited vacations to work on the motions, contrary to the Court's expressed intent.

Second, many of the issues invoked by the above motions overlap with issues that will be addressed in the proposed findings of fact, and Plaintiffs intend to, in part, refer the Court to those proposed findings when opposing the motions. Therefore, it is much more efficient to address the motions at the time Plaintiffs file their proposed findings on January 19. Indeed, Fed. R. Civ. P. 52 requires the Court to issue findings of fact and conclusions of law – whether it renders a full *or* partial judgment – and the Court will likely want the benefit of reviewing the parties' proposed findings when evaluating these motions.

DATED: January 3, 2007

By: /s/ Steve W. Berman
Thomas M. Sobol (BBO#471770)
Edward Notargiacomo (BBO#567636)
Hagens Berman Sobol Shapiro LLP
One Main Street, 4th Floor
Cambridge, MA 02142
Telephone: (617) 482-3700
Facsimile: (617) 482-3003

Liaison Counsel

Steve W. Berman
Sean R. Matt
Hagens Berman Sobol Shapiro LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

Kenneth A. Wexler
Jennifer Fountain Connolly
Wexler Toriseva Wallace LLP
One North LaSalle Street, Suite 2000
Chicago, IL 60602
Telephone: (312) 346-2222
Facsimile: (312) 346-0022

Elizabeth Fegan
Hagens Berman Sobol Shapiro LLP
60 W. Randolph Street, Suite 200
Chicago, IL 60601
Telephone: (312) 762-9235
Facsimile: (312) 762-9286

Jeffrey Kodroff
John Macoretta
Spector, Roseman & Kodroff, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103
Telephone: (215) 496-0300
Facsimile: (215) 496b-6611

Marc H. Edelson
Edelson & Associates LLC
45 West Court Street
Doylestown, PA 18901
Telephone: (215) 230-8043
Facsimile: (215) 230-8735

Donald E. Haviland, Jr.
The Haviland Law Firm LLC
740 S. Third Street, Third Floor
Philadelphia, PA 19147
Telephone: (215) 609-4661
Facsimile: (215) 392-4400

Co-Lead Counsel For Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing **PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANTS' NEW MOTIONS** to be delivered to all counsel of record by electronic service pursuant to paragraph 11 of the Case Management Order No. 2, by sending on January 3, 2007, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Steve W. Berman

Steve W. Berman